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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,480	07/07/2000	MAARTEN JONGSMA	252003-1040	9981

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EXAMINER

KUBELIK, ANNE R

ART UNIT PAPER NUMBER

1638

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/445,480	Applicant(s) JONGSMA ET AL.	
	Examiner Anne R. Kubelik	Art Unit 1638	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 14 August 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 8, 10-14, 18, 24, 27-39.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 2. NOTE:

New issues: 112, 2nd: Claim 1 is indefinite in its recitation of "the group of proteins having an amino acid sequence of SEQ ID NO:2 containing at least one type I repeated thyroglobulin domain". Words appear to be missing from the claim. Alternately, excess words are present, because only one protein has an amino acid sequence of SEQ ID NO:2; this protein would also inherently have at least one type I repeated thyroglobulin domain.

Claim 10 lacks antecedent basis for the limitation "the thus formed reproduced plants" in lines 4-5.

Claims 37 and 39 are indefinite in their recitation of "the protein containing ... fragment" or "the protein containing ... salmon" as the protein in claim 8 appears to be SEQ ID NO:8, and thus it cannot be human p41 invariant chain fragment or a protein isolated from the eggs of chum salmon. Does Applicant mean that the protein also comprises those proteins?

Objections: Claim 24 is a substantial duplicate of claim 14; claim 38 fails to further limit claim 8.

Continuation of 3. Applicant's reply WOULD HAVE overcome the following rejection(s):

112, 1st over claim 16 (paragraph 10 of the Office action mailed 11 February 2003).

102(b) over claims 24, 2843 and 37-39 as being anticipated by Walsh et al (WO 92/21753).

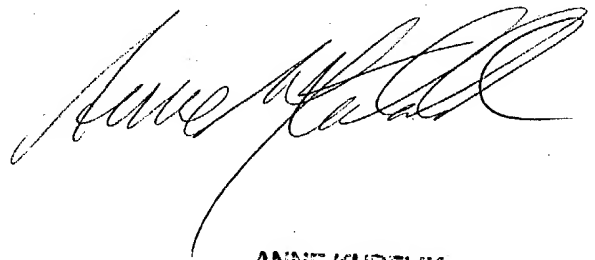
112, 1st written description and enablement over claims 8, 10-14, 17-18, 24 and 28-39.

Continuation of 5. does NOT place the application in condition for allowance because:

112, 1st, new matter over claims 37 and 39; Applicant urges that the claims have been amended to replace the phrase "wherein at least one of the proteins" with "wherein the protein". This is not found persuasive. Applicant fails to provide support for the use in the instant method of nucleic acids encoding human p41 invariant chain fragment or a protein isolated from the eggs of chum salmon.

Continuation of 10. Other: The amendment to the specification filed 23 January 2004 has been entered.

The computer readable form of the sequence listing filed 22 MARCH 2004 is good..



ANNE KUDELIK
PATENT EXAMINER